

CHAPTER 4

THE PROTECTION OF LIFE AND PROPERTY OF NON-MUSLIMS

4.1 ISLAM GUARANTEES SAFETY OF THE WHOLE OF HUMANITY WITHOUT RELIGIOUS DISCRIMINATION

Thousands of victims of terrorist mayhem in Pakistan were Muslims. Also, in the Peshawar Army School carnage, Muslim children were killed. The conduct of Allah's Messenger ﷺ is a spring of mercy, compassion and protection of the non-Muslim citizens. He taught love and affection to humanity without any discrimination of creed; Muslim or non-Muslim, all human beings enjoy indiscriminate mercy and compassion.

‘Abd Allāh b. ‘Amr ؓ related that the exalted Prophet ﷺ said:

مَنْ قَتَلَ مُعَاهِدًا لَمْ يَرِحْ رَائِحَةَ الْجَنَّةِ، وَإِنَّ رِيحَهَا تُوجَدُ مِنْ مَسِيرَةِ
أَرْبَعِينَ عَامًا.

“Anyone who kills a non-Muslim under the treaty [*mu‘āhad*] will not smell the fragrance of Paradise, even though its fragrance can be smelt at a distance of forty years.”¹

Thus, the Islamic teachings guarantee the safety and protection of life and property of non-Muslim citizens in the same way it provides for the Muslims. In another tradition, ‘Abd Allāh b. ‘Amr ؓ related that the Prophet ﷺ said:

مَنْ قَتَلَ قَتِيلًا مِنْ أَهْلِ الذِّمَّةِ لَمْ يَجِدْ رِيحَ الْجَنَّةِ، وَإِنَّ رِيحَهَا لَيُوجَدُ مِنْ

¹ Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jizya* [The Book of Taxation for non-Muslims Living in an Islamic State], chapter: “The Sin of Someone Who Kills a non-Muslim Citizen without His Having Committed a Crime,” 3:1155 §2995. •Ibn Mājah in *al-Sunan: Kitāb al-diyāt* [The Book of Blood Money], chapter: “Someone Who Kills a Non-Muslim Citizen,” 2:896 §2686. •al-Bazzār in *al-Musnad*, 6:368 §2383.

مَسِيرَةَ أَرْبَعِينَ عَامًا.

“Anyone who kills a non-Muslim citizen will not smell the fragrance of Paradise, while its fragrance can be smelt at a distance of forty years.”¹

The Prophet’s ﷺ injunctions evidently declare that a murderer of a non-Muslim will never smell the fragrance of Paradise, nor will he receive the reward for maintaining the conventional appearance of a Muslim, growing a beard and having a turban on his head, performing regularly the acts of worship and performing the pilgrimage at the Sacred House.

4.2 THE STRICT PROHIBITION OF KILLING WOMEN EVEN IN THE BATTLEFIELD

Allah’s Messenger’s ﷺ conduct vividly reflects love for humanity and for women in particular. ‘Abd Allāh b. ‘Umar ؓ said:

وُجِدَتْ امْرَأَةٌ مَقْتُولَةٌ فِي بَعْضِ مَغَازِي رَسُولِ اللَّهِ ﷺ فَنهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ.

“A woman was found slain in one of the expeditions. Upon this, Allah’s Messenger ﷺ forbade the killing of women and children.”²

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 2:186 §6745. •al-Nasā’ī in *al-Sunan*, 8:25 §4750 & in *al-Sunan al-Kubrā*, 4:221 §6952. •al-Bazzār in *al-Musnad*, 6:361 §2373. •al-ʿĀkim in *al-Mustadrak ʿala al-Ṣaḥīḥayn*, 2:137 §2580. •Ibn al-Jārūd in *al-Muntaqā*, 1:212 §834. •al-Bayhaqī in *al-Sunan al-kubrā*, 8:133 §16260. Cited by •al-Mundhirī in *al-Targhīb wa al-tarhīb*, 3:204 §3693.

² Set forth by •al-Bukhārī in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], chapter: “Killing Women in War,” 3:1098 §2852. •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], chapter: “The Unlawfulness of Killing Women and Children during War,” 3:1364 §1744. •Aḥmad b. Ḥanbal in *al-Musnad*, 2:22 §4739. •al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Book of Military Expeditions], chapter: “What Has Come to Us about the Killing of Women and Children,” 4:136 §1569. •Ibn

This hadith has been reported both in al-Bukhārī's *al-Ṣaḥīḥ* and Muslim's *al-Saḥīḥ*. According to 'Abd Allāh b. 'Umar رضي الله عنه, 'We were once in a battle when, during war, the noble Companions reported: 'O Messenger of Allah! Some women and children have also been slain in the battle. They were non-Muslims.' The women and children were killed in the battlefield, and they would certainly have been part of the disbelievers' army, providing their soldiers with medical aid or engaging in some other reinforcing activities. However, when the report was submitted to the Prophet about the killing of women and children, he did not agree to this conduct and disliked it. He strictly enjoined the Companions to abstain from killing women and children. See the words reported in the hadith:

فَنَهَى رَسُولُ اللَّهِ ﷺ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ.

"Allah's Messenger ﷺ (strictly) forbade the killing of women and children."

While the Messenger of Allah has categorically forbidden killing them, are women and children safe and protected in terroristic suicide attacks the Kharijites launch in the name of Islam in the present time? The women and children the Prophet has forbidden to kill are the disbelievers' families. The Muslim soldiers are disallowed to slay them during war, let alone kill them when they are in hospitals or houses receiving medical treatment, when they are busy performing ritual prayers in mosques, or when they are attacked by suicide bombers and are butchered to death. The terrorists brutally kill the men, the women, the young and old, the children and the ailing indiscriminately.

4.3 STRICT PROHIBITION AGAINST KILLING CHILDREN IN BATTLEFIELD

During war, the prohibition of killing children apart from women is also one of the golden and humane principles of Islam. Compare and contrast the principles of war laid down by the Merciful Messenger ﷺ and the atrocities of the self-proclaimed defenders of Islam, the

terrorists. Would that they could have a trace of shame towards the Prophetic injunctions!

Quoting a letter of Ibn ‘Abbās رضي الله عنه, Imam Muslim wrote in his collection, *al-Shahīh*:

وَإِنَّ رَسُولَ اللَّهِ ﷺ لَمْ يَكُنْ يَقْتُلُ الصَّبِيَّانَ فَلَا تَقْتُلِ الصَّبِيَّانَ.

“Indeed, the Messenger of Allah did not kill children, so you must not kill them either.”¹

See another hadith report wherein the Messenger of Allah has, in very harsh words, forbade the Companions from killing the children of non-Muslims and repeated his prohibition in effect.

Aswad b. Sarī رضي الله عنه narrated:

كُنَّا فِي غَزَاةٍ فَأَصَبْنَا طَفَرًا وَقَتَلْنَا مِنَ الْمُشْرِكِينَ حَتَّى بَلَغَ بِهِمُ الْقَتْلُ إِلَى أَنْ قَتَلُوا الذَّرِيَّةَ فَبَلَغَ ذَلِكَ النَّبِيَّ ﷺ فَقَالَ: مَا بَالُ أَقْوَامٍ بَلَغَ بِهِمُ الْقَتْلُ إِلَى أَنْ قَتَلُوا الذَّرِيَّةَ أَلَا لَا تَقْتُلُنْ ذُرِّيَّةً أَلَا لَا تَقْتُلُنْ ذُرِّيَّةً قِيلَ: لِمَ يَا رَسُولَ اللَّهِ، أَلَيْسَ هُمْ أَوْلَادُ الْمُشْرِكِينَ؟ قَالَ: أَوْ لَيْسَ خِيَارُكُمْ أَوْلَادُ الْمُشْرِكِينَ.

“We were once in a battle and gained the upper hand and killed many of the pagans, including some children. The news of this reached the Prophet ﷺ and he said, ‘What is wrong with some people that they went so far as to kill children? Beware! Do not kill children at all! Beware! Do not kill children at all!’ Someone asked: ‘Why, O Messenger of Allah? Are they not the children of the pagans?’ He replied: ‘Are the best amongst you not from the children of pagans?’”²

¹ Set forth by •Muslim in *al-Shahīh: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Battles], 3:1444 §1812.

² Set forth by •al-Nasā’ī in *al-Sunan al-kubrā: Kitāb al-siyar* [The Book of Military Expeditions], chapter: “The Prohibition of Killing the Children of the Pagans,” 5:184 §8616. •al-Dārimī in *al-Sunan*, 2:294 §2463. •al-Hākim in *al-Mustadrak*, 2:133-134 §§2566-2567. •al-Ṭabarānī in *al-Mu’jam al-kabīr*, 1:284.

According to another hadith report, someone submitted: 'O Messenger of Allah ﷺ! They were only the children of pagans'. He said:

خَيْرَكُمْ أَبْنَاءُ الْمُشْرِكِينَ، أَلَا، لَا تُقْتَلُ الذَّرِّيَّةُ.

'The best of you are the children of pagans. Beware! Children must not be killed.'¹

None is better informed about the need and significance of fighting in the way of Allah than the Companions. Our lives be sacrificed for them! These paragons of love and obedience acted upon the instructions of the Holy Prophet ﷺ and observed the finest details and caution during the war. See a beautiful example of their caution during war:

According to 'Aṭiya al-Quraẓī رضي الله عنه:

كُنْتُ فِيْمَنْ حَكَمَ فِيْهِمْ سَعْدُ بْنُ مُعَاذٍ، فَشَكُّوا فِيَّ: أَمِنَ الذَّرِّيَّةُ أَنَا أَمْ مِنْ الْمُقَاتِلَةِ؟ فَنَظَرُوا إِلَى عَانَتِي فَلَمْ يَجِدُوهَا نَبَتًا، فَأَلْقَيْتُ فِي الذَّرِّيَّةِ، وَلَمْ أُقْتَلْ.

"I was amongst those judged by Sa'd b. Mu'adh [when he was given the authority to decide the fate of the plotters of Banū Qurayẓa], but they were in doubt about me—was I to be counted amongst the children or amongst those who engaged in hostilities?—so, to find the answer, they examined my pubic regions and saw that I had yet to grow pubic hair [and thus was underage], so they grouped me with the children and I was spared."²

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 3:435 §§15626–15627. •al-Nas'ī in *al-Sunan al-kubrā*, 5:184 §8616. •al-Dārimī in *al-Sunan*, 2:294 §2463. •Ibn Abī Shayba in *al-Muṣannaf*, 6:484 §33131. •Ibn ʿibbān in *al-Ṣaḥīḥ*, 1:341 §132. •al-ʾakīm in *al-Ṣaḥīḥ*, 2:133–134, §2566–2567. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:77 §17868. Cited by •al-Haythamī in *Majma' al-zawā'id*, 5:316.

² Set forth by •Ibn Ḥibbān in *al-Ṣaḥīḥ: Kitāb al-siyar* [The Book of Military Expeditions], 11:109 §4788. •ʿAbd al-Razzāq in *al-Muṣannaf*, 10:179 §18742.

Regarding the prohibition of killing non-Muslim women, children and elderly folk during war, the eminent Ḥanafī jurist Imam al-Sarakhsī wrote in his magnum opus, *al-Mabsūṭ*:

قَالَ ﷺ: وَلَا تَقْتُلُوا وَلِيدًا. وَالْوَلِيدُ الْمَوْلُودُ فِي اللُّغَةِ وَكُلُّ آدَمِيٍّ مَوْلُودٌ، وَلَكِنَّ هَذَا اللَّفْظُ إِنَّمَا يُسْتَعْمَلُ فِي الصَّغَارِ عَادَةً. فَفِيهِ دَلِيلٌ عَلَى أَنَّهُ لَا يَحِلُّ قَتْلُ الصَّغَارِ مِنْهُمْ، إِذَا كَانُوا لَا يُقَاتِلُونَ. وَقَدْ جَاءَ فِي الْحَدِيثِ أَنَّ النَّبِيَّ ﷺ نَهَى عَنْ قَتْلِ النِّسَاءِ وَالْوِلْدَانِ. وَقَالَ: اقْتُلُوا شُيُوخَ الْمُشْرِكِينَ، وَاسْتَحْيُوا شُرُوخَهُمْ. وَالْمُرَادُ بِالشُّيُوخِ الْبَالِغِينَ وَبِالشُّرُوخِ الْأَتْبَاعَ مِنَ الصَّغَارِ وَالنِّسَاءِ وَالْإِسْتَحْيَاءُ الْإِسْتِرْقَاقُ. قَالَ اللَّهُ: ﴿وَأَسْخِيُوا نِسَاءَهُمْ﴾. وَفِي وَصِيَّةِ أَبِي بَكْرٍ ؓ لِزَيْدِ بْنِ أَبِي سُفْيَانَ: لَا تَقْتُلْ سَيْخًا ضَرِعًا وَلَا صَبِيًّا ضَعِيفًا، يَعْنِي سَيْخًا قَانِيًا وَصَبِيًّا لَا يُقَاتِلُ.

The Prophet ﷺ said: “Do not kill children [*walīd*].” In the [Arabic] language, the word *walīd* means the one who is born [*mawlūd*]; and every human being [*ādami*] is born. However, customarily this word is only used for young children. Therefore, it proves that it is impermissible to kill the young children amongst them [the non-Muslims], as long as they are not fighting. It is mentioned in a hadith that the Prophet ﷺ forbade the killing of women and children, and said: “Kill the [warring] elders of the pagans [during war] and keep alive their subordinates.” The “elders” refer to the adults amongst them, and the “subordinates” signify their followers amongst the young and the womenfolk. To “keep alive” here means to take them as captives. Allah says, ﴿And they kept their women alive﴾.¹ And it is mentioned in Abū Bakr’s ؓ dictated commands to Yazīd b. Abī Sufyān: “Kill neither a feeble old man nor a fragile young child”—in other

•al-Ṭabarānī in *al-Muʿjam al-kabīr*, 17:164 §434. •al-Bayhaqī in *al-Sunan al-kubrā*, 6:166 §11098.

¹ Qurʾān 40:25.

words, an elderly man and a young child who do not fight.¹

This contains an explicit message for the people who have been given a totally wrong and heretical concept about jihad. They kill women and children with the notion that this is a service to Islam and jihad. The message for them is that this is not at all Islam and is rather deviation from the Prophet's ﷺ command and Sunna; it is rebellion and treachery against Islam. The Prophetic teachings enjoin that the women and children of the disbelievers also must not be slain even in the battlefield, leave alone terrorists butchering them in schools, heinously considering it jihad. We take refuge with Almighty Allah! Some people kill their own citizens and consider it Jihad due to their self-interpreted concept. May Allah protect Muslims from falling prey to such heretical concepts!

The events of bloodshed and massacre cannot be called either a war or jihad. Not only Islam, but the modern world has also evolved some principles of war; there is no place of brutality, barbarism and indiscriminate bombing the civilian populated areas. They declare them war crimes punishable under international law. Islam enlightened the whole world with unparalleled and unprecedented principles of true jihad. What kind of humans are they whose hearts are devoid of concerns for humanity? Nor do they care for any international principles and laws. What kind of Muslims are they? They not only trample over the rules and conditions laid down for jihad, but also crush the comprehensive Islamic teachings.

The terrorists have declared killing their opponents as a permissible act. With this mind-set, they are engaged in blowing up mosques, spilling human blood all around, and desecrating sacred tombs, calling them centres of polytheistic activities. Considering government schools as institutions of non-Islamic education, they blast buildings and slaughter teaching staff. The terrorist suicide attacks at the state buildings and public places have taken the lives of thousands of state workers and common citizens. People are facing this barbarism and savagery with tearful eyes and mournful hearts.

¹ Al-Sarakhsi, *al-Mabsūt*, 10:5-6.

4.3.1 KILLING WOMEN AND CHILDREN IS STRIFE, NOT JIHAD

The importance Islam lays on the sanctity and dignity of human life can be gauged from the fact that it forbids indiscriminate killing even when Muslim armies are engaged in war against enemy troops. The killing of children, women, elderly people, religious leaders and traders is strictly prohibited in the battlefield. Similarly, those who surrender their arms, confine themselves to their homes and seek shelter cannot be killed. The general public must not be targeted and killed, and likewise, places of worship, buildings, crops and even trees must not be destroyed.

On the one hand, there is a clear set of Islamic laws based on extreme discretion, and on the other hand, there are terrorist activities in the name of Islam to justify the indiscriminate and wanton killing of peaceful people, women and children and people in mosques. It is a pity that such barbaric people claim that their activities are jihad. No eye in this world would have witnessed this major contrast. In no way is it permissible to hold foreign delegates under unlawful custody and murder them and other peaceful non-Muslim citizens in retaliation for the interference, injustices and aggression of non-Muslim global powers. The one who commits these acts has no relation to Islam or the Prophet of Islam. ﷺ

Those who suspect that anti-state activities of the armed terrorists are considered jihad should feel at ease knowing that killing peaceful and truth-speaking people is actually not jihad; it is rather an attempt to bring the sublime concept of religion, jihad, into disrepute. In the history of Islam, terrorism has been forbidden as an absolute crime. Similarly, considering the armed rebels as the enemy to the nation and the state is an act of righteousness.

4.4 THE PROHIBITION OF KILLING FOREIGN DELEGATES

Islam teaches peace and tolerance in national and international affairs. According to the teachings of the Qur'ān and hadith, it is forbidden to kill a diplomat hailing from a hostile nation who comes to a Muslim state for the purpose of diplomacy. Many non-Muslim diplomats and delegates would come to the Prophet ﷺ on various

occasions and he not only treated them with the utmost respect, but also instructed his Companions to treat them well. It is even recorded that the representatives of Musaylama the liar, a false claimant to prophethood, visited the Prophet Muhammad ﷺ and confessed to their apostasy, yet the Prophet ﷺ treated them well because they were diplomats. ‘Abd Allāh b. Mas‘ūd ؓ said,

إِنِّي كُنْتُ عِنْدَ رَسُولِ اللَّهِ ﷺ جَالِسًا إِذْ دَخَلَ هَذَا (عَبْدُ اللَّهِ بْنُ نُوَاحَةَ) وَرَجُلٌ وَافِدَيْنِ مِنْ عِنْدِ مُسَيْلَمَةَ. فَقَالَ هُمَا رَسُولُ اللَّهِ ﷺ: أَتَشْهَدَانِ أَنِّي رَسُولُ اللَّهِ؟ فَقَالَا لَهُ: نَشْهَدُ أَنَّ مُسَيْلَمَةَ رَسُولُ اللَّهِ، فَقَالَ: آمَنْتُ بِاللَّهِ وَرُسُلِهِ، لَوْ كُنْتُ قَاتِلًا وَافِدًا لَقَتَلْتُكُمَا.

‘I was in the presence of God’s Messenger ﷺ when this man [‘Abd Allāh b. Nuwāḥa] and another man came as official representatives of Musaylama (the liar). The Messenger of God ﷺ asked them, “Do you bear witness that I am the Messenger of God?” They said to him, “We bear witness that Musaylama is the Messenger of God!” The Messenger of God ﷺ said to them, “I believe in God and His Messengers. Were I to execute ambassadors, I would have executed both of you”.’¹

See that despite the apostasy and disbelief of Musaylama’s followers, extreme tolerance was shown towards them. They were not punished in any way. Because they were diplomats, they were neither imprisoned nor ordered to be killed.

According to a narration in the *Musnad* of Aḥmad b. ḥanbal,² the *Muṣannaf* of ‘Abd al-Razzāq al-Ṣan‘ānī³ and the *Musnad* of al-

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 1:404 §3837. •al-Dārimī in *al-Sunan*, 2:307 §2503. •al-Nasā’ī in *al-Sunan al-kubrā*, 5:205 §8675. •Abū Ya‘lā in *al-Musnad*, 9:31 §5097. •al-Ḥākim in *al-Mustadrak*, 3:54 §4378.

² Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 1:390, 396 §3708, 3761.

³ Set forth by •‘Abd al-Razzāq in *al-Muṣannaf*, 10:196 §18708.

Bazzār,¹ it is impermissible to kill either diplomats or their diplomatic staff. The aforementioned hadith establishes that safeguarding the life of diplomats and foreign representatives is the Sunna of the Prophet ﷺ. ‘Abd Allāh b. Mas‘ūd رضي الله عنه said,

فَجَرَتْ سُنَّةٌ أَنْ لَا يُقْتَلَ الرَّسُولُ.

‘It is an established Sunna that ambassadors are not to be killed’.²

This statement of the Messenger of God ﷺ set the precedent in international law with respect to diplomatic protection. This further illustrates that all the personnel in an embassy on diplomatic assignments are entitled to the same treatment, and it is impermissible to kill them. In recent years in Pakistan and other parts of the world there have been a number of incidents where foreign diplomats and engineers have been kidnapped and killed. Unfortunately, those who commit these actions continue to call themselves *mujāhidūn* [those who wage martial jihad] despite the fact that their actions completely contravene the teachings of the Prophet ﷺ.

4.5 THE PROHIBITION OF KILLING RELIGIOUS LEADERS

Just as foreign diplomats enjoy sanctity and protection in Islamic law, so too do non-Muslim religious leaders; it is strictly forbidden to kill them. ‘Abd Allāh b. ‘Abbās رضي الله عنه said,

كَانَ رَسُولُ اللَّهِ ﷺ إِذَا بَعَثَ جُيُوشَهُ قَالَ: لَا تَغْدِرُوا، وَلَا تَغْلُوا، وَلَا تُمَثِّلُوا، وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا أَصْحَابَ الصَّوَامِعِ.

‘When the Messenger of God ﷺ dispatched his troops he would say [to them], “Do not act treacherously, do not steal the spoils of war, do not disfigure the dead bodies, and do not kill children and priests”.’³

¹ Set forth by •al-Bazzār in *al-Musnad*, 5:142 §1733.

² Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 1:390 §3708.

³ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 1:330 §2728. •Ibn Abī Shayba

This hadith establishes that, even during times of war—let alone in normal circumstances—it is impermissible to kill religious leaders.

4.6 THE UNLAWFULNESS OF KILLING NON-MUSLIM TRADERS AND FARMERS

Islam has given complete protection to farmers, traders and businessmen, and forbade killing them, because they are associated with the economy and financial survival of humanity. There are several prophetic narrations that speak of this.

Ibn Abī Shayba and al-Bayhaqī narrated on the authority of Jābir b. ‘Abd Allāh رضي الله عنه who said,

كَانُوا لَا يَقْتُلُونَ حُجَّارَ الْمُشْرِكِينَ.

‘They [the Muslim soldiers] did not kill the merchants amongst the pagans’.¹

Imam Ibn Abī Shayba also narrated on the authority of Zayd b. Wahb that ‘Umar رضي الله عنه sent him a letter in which he said,

لَا تَعْلُوا وَلَا تَغْدِرُوا، وَلَا تَقْتُلُوا وَلِيدًا، وَاتَّقُوا اللَّهَ فِي الْفَلَاحِينَ.

‘Do not take anything without right when distributing the spoils of war, and do not commit any treachery or kill children. And fear God regarding farmers’.²

Imam al-Bayhaqī’s version of this report reads,

اتَّقُوا اللَّهَ فِي الْفَلَاحِينَ فَلَا تَقْتُلُوهُمْ.

in *al-Muṣannaf*, 6:484 §33132. •Abū Ya‘lā in *al-Musnad*, 4:422 §2549. Also mentioned by •Ibn Rushd in *Bidāyat al-mujtahid*, 1:281.

¹ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:484 §33129. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §17939. Cited by •Ibn Ādam al-Qurashī in *al-Kharāj*, 1:52 §133.

² Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33120. Cited by •Ibn Ādam al-Qurashī in *Kitāb al-Kharāj*, 1:52 §132.

‘Fear God regarding the farmers and do not kill them’.¹

Ibn al-Qayyim said,

إِنَّ أَصْحَابَ النَّبِيِّ ﷺ لَمْ يَقْتُلُوهُمْ حِينَ فَتَحُوا الْبِلَادَ، وَلَا يَتَّبِعُهُمْ لَا يُقَاتِلُونَ، فَأَشَبَّهُوا الشُّيُوخَ وَالرُّهْبَانَ.

‘Indeed, when the Companions of the Prophet ﷺ conquered various lands, they did not kill them [farmers and merchants] because the latter did not fight [against them], and so in that sense they [the civilians] resembled the elderly and the religious leaders’.²

Al-Awzā‘ī took a similar view and said,

لَا يُقْتَلُ الْحَرَاثُ إِذَا عَلِمَ أَنَّهُ لَيْسَ مِنَ الْمُقَاتِلَةِ.

‘Farmers are not to be killed [during war] if it is known that they are not from the combatants’.³

And Ibn Qudāma al-Maqdisī stated,

أَمَّا الْفَلَّاحُ الَّذِي لَا يُقَاتِلُ فَيَنْبَغِي أَلَّا يُقْتَلَ، لِمَا رُوِيَ عَنْ عُمَرَ بْنِ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ قَالَ: اتَّقُوا اللَّهَ فِي الْفَلَاحِينَ، الَّذِينَ لَا يَنْصُبُونَ لَكُمْ فِي الْحَرْبِ.

‘As for the farmer who is a non-combatant, he should not be killed, because it was narrated from ‘Umar b. al-Khaṭṭāb رَضِيَ اللَّهُ عَنْهُ that he said, “Fear God regarding the farmers who do not wage war against you”’.⁴

4.7 THE UNLAWFULNESS OF KILLING NON-MUSLIM SERVICE PERSONNEL

Islamic laws regulate the conduct of the Muslim soldiers during the

¹ Set forth by •al-Bayhaqī in *al-Sunan al-kubrā*, 9:91 §17938.

² Ibn al-Qayyim, *Aḥkām ahl al-dhimma*, 1:165.

³ Ibid.

⁴ Ibn Qudāma al-Maqdisī, *al-Mughnī*, 9:251.

course of war and restrain them from killing non-Muslim professionals and those tasked with the delivery of services. Rabāḥ b. Rabīḥ رضي الله عنه said,

كُنَّا مَعَ رَسُولِ اللَّهِ ﷺ فِي غَزْوَةٍ، فَرَأَى النَّاسَ مُجْتَمِعِينَ عَلَى شَيْءٍ، فَبَعَثَ رَجُلًا فَقَالَ: انْظُرْ عَلَى مَا اجْتَمَعَ هُوَ لَاءِ؟ فَجَاءَ، فَقَالَ: عَلَى امْرَأَةٍ قَتِيلَةٍ. فَقَالَ: مَا كَانَتْ هَذِهِ لِقَاتِلٍ. قَالَ: وَعَلَى الْمُقَدَّمَةِ خَالِدِ بْنِ الْوَلِيدِ. فَبَعَثَ رَجُلًا فَقَالَ: قُلْ لِحَالِدٍ: لَا يَقْتُلَنَّ امْرَأَةً وَلَا عَسِيفًا. وَفِي رِوَايَةٍ: لَا تَقْتُلَنَّ ذُرِّيَّةً وَلَا عَسِيفًا.

‘We were with the Messenger of God ﷺ in one of the battle expeditions, when he saw some people gathered around something. He sent a man out, saying, “Go and see what they are gathering around”. The man returned and informed him, saying, “They are gathering around a slain woman”. The Prophet ﷺ said, “She was not amongst those who fight!” At the head of the group was Khālīd b. al-Walīd, so the Prophet sent a man to go and inform Khālīd: “Neither an [idolatrous] woman nor a hired servant should be killed.” [In one report:] ‘Do not kill children or hired servants’.¹

In fact, non-Muslim employees working in the households of non-Muslim employers in the conquered areas are not to be killed and no kind of tax can be imposed upon them. Ibn al-Qayyim stated the same thing, quoting ‘Abd Allāh b. ‘Umar رضي الله عنه:

إِنَّ الْعَبْدَ مُحْفُونُ الدِّمِّ فَأَشْبَهَ النِّسَاءَ وَالصِّبْيَانَ.

‘The blood of a servant is inviolable, and is thereby similar to that of women and children’.²

¹ Set forth by •Aḥmad b. Ḥanbal in *al-Musnad*, 3:488 §16035. •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], chapter: “The Killing of Women”, 3:53 §2669. •Ibn Mājah in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], 2:948 §2842. •al-Nasā’ī in *al-Sunan al-kubrā*, 5:186–187 §§8625, 8627. •al-Ḥākim in *al-Mustadrak*, 2:133 §2565.

² Ibn Qayyim al-Jawziyya, *Aḥkām ahl al-dhimma*, 1:172.

Likewise, Ibn al-Mundhir cited a consensus amongst the scholars that, like the unemployed, the old, the sick, the destitute and women and children of non-Muslims—no tax can be levelled on the servants under their responsibility and care.¹

4.8 THE UNLAWFULNESS OF KILLING NON-MUSLIMS WHO ARE NON-COMBATANTS

Islam holds that the sanctity of life is superior to the sanctity of the *Ka'ba*. That is why shedding blood unjustly has been condemned in the harshest possible terms. The only enemies who are allowed to be killed are those who actively take part in combat. A large part of population, which is non-combatant, including children, women, the old, the sick and the disabled, have been excluded from this. On the day of the conquest of Mecca, the Prophet ﷺ ordered that those who were not fighting should run away to save their lives, and shut their doors, and he ordered that those who were injured should not be attacked.

Imam Muslim narrated on the authority of Abū Hurayra رضي الله عنه that the Messenger of God ﷺ said on the day of the conquest of Mecca,

مَنْ دَخَلَ دَارَ أَبِي سُفْيَانَ فَهُوَ آمِنٌ، وَمَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ
أَغْلَقَ بَابَهُ فَهُوَ آمِنٌ.

‘Whoever enters Abū Sufyān’s house is safe, and whoever lays down his weapon is safe and whoever shuts his door is safe’.²

All of these steps convey the message of peace and protection.

It is reported in ‘Abd al-Razzāq’s *Muṣannaf* that ‘Alī b. Abī Ṭalib رضي الله عنه said,

لَا يُدْفَعُ عَلَى جَرِيحٍ، وَلَا يُقْتَلُ أَسِيرٌ، وَلَا يُتَّبَعُ مُدْبِرٌ.

¹ Ibid.

² Set forth by •Muslim in *al-Ṣaḥīḥ: Kitāb al-jihād wa al-siyar* [The Book of Jihad and Military Expeditions], chapter: “The Conquest of Mecca”, 3:1407 §1780. •Abū Dāwūd in *al-Sunan: Kitāb al-kharāj wa al-imāra wa al-fay* [The Book of Land Tax, Leadership and the Spoils Acquired without Fighting], 3:162 §3021. •al-Bazzār in *al-Musnad*, 4:122 §1292.

‘An injured person or a prisoner should not be killed, and the one who flees should not be pursued’.¹

According to another narration recorded by ‘Abd al-Razzāq, Juwaybir reported that a woman from the tribe of Banū Asad told him that she heard ‘Ammār ؓ declare after ‘Alī ؓ had finished the Battle of the Camel,²

لَا تُذَفِّقُوا عَلَى جَرِيحٍ، وَلَا تَدْخُلُوا دَارًا. مَنْ أَلْقَى السَّلَاحَ فَهُوَ آمِنٌ، وَمَنْ
أَغْلَقَ بَابَهُ فَهُوَ آمِنٌ.

‘Do not kill an injured person and do not enter the house of someone who has laid down his arms, for he is considered safe. Similarly, the one who shuts his door is considered safe’.³

4.9 THE PROHIBITION OF DESTROYING THE CATTLE, CROPS AND PROPERTIES OF THE ENEMY

Islam neither allows the unjust shedding of blood, nor does it approve of the scorched earth policy of total war. Islam calls for reform and peace. Therefore, it takes care that those fighting for its sake do not destroy crops and fruit-bearing trees, or burn down properties.

Al-Tirmidhī quoted the following saying of the First Rightly Guided Caliph in this regard:

نَهَى أَبُو بَكْرٍ الصِّدِّيقُ ؓ أَنْ يَقْطَعَ شَجَرًا مُثْمِرًا أَوْ يُحَرِّبَ عَامِرًا، وَعَمِلَ
بَذَلِكَ الْمُسْلِمُونَ بَعْدَهُ.

‘Abū Bakr al-Ṣiddīq ؓ forbade people from cutting down fruit-bearing trees or destroying buildings [during war]—

¹ Set forth by •‘Abd al-Razzāq in *al-Muṣannaf*, 10:123 §18590.

² A battle that took place in 656 CE. ED.

³ Set forth by •‘Abd al-Razzāq in *al-Muṣannaf*, 10:124 §18591.

and the Muslims abided by his instructions after that'.¹

Many traditions have been reported by Imam Mālik, 'Abd al-Razzāq, Ibn Abī Shayba and al-Bayhaqī to this effect. According to these traditions, the Prophet ﷺ strictly forbade cutting down trees. Yahyā b. Sa'īd states that he was told that while seeing off the Muslim forces for Syria, Abū Bakr al-Ṣiddīq ؓ came to Yazīd b. Abī Sufyān and told him,

إِنِّي أَوْصِيكَ بِعَشْرِ: لَا تَقْتُلَنَّ صَبِيًّا وَلَا امْرَأَةً، وَلَا كَبِيرًا هَرِمًا، وَلَا تَقْطَعَنَّ شَجَرًا مُثْمِرًا، وَلَا تُحَرِّبَنَّ عَامِرًا، وَلَا تَعْقِرَنَّ شَاةً وَلَا بَعِيرًا إِلَّا لِمَا كَلَةٍ، وَلَا تُحْرِقَنَّ نَخْلًا، وَلَا تُغْرِقَنَّهُ، وَلَا تَعْلُلْ، وَلَا تَحْجُبْ.

'I command you to observe ten things: Do not kill a young child, a woman or an elderly infirm man. Do not cut down fruit-bearing trees or demolish buildings. Do not slaughter a sheep or a camel except for food. Do not drown or burn date-palm trees. And do not steal from the war booty or show cowardice'.²

Ibn Abī Shayba quotes a tradition reported by Mujāhid who said,

لَا يُقْتَلُ فِي الْحَرْبِ الصَّبِيُّ، وَلَا امْرَأَةٌ وَلَا الشَّيْخُ الْفَانِي، وَلَا يُحْرَقُ الطَّعَامُ، وَلَا النَّخْلُ، وَلَا تُحَرَّبُ الْبُيُوتُ، وَلَا يُقَطَّعُ الشَّجَرُ الْمُثْمِرُ.

'Young children, women and infirm elderly men should not be killed in war. Food and date-palm trees should not be burned, houses should not be demolished and fruit-bearing

¹ Set forth by •al-Tirmidhī in *al-Sunan: Kitāb al-siyar* [The Book of Military Expeditions], 4:122 §1552.

² Set forth by •Mālik in *al-Muwatta': Kitāb al-jihād* [The Book of Jihad], chapter: "The Unlawfulness of Killing Women and Children During Military Expeditions", 2:447 §965. •'Abd al-Razzāq in *al-Muṣannaf*, 5:199 §9375. •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33121. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:89-90 §§17927, 17929. •al-Marwazī in *Musnad Abī Bakr*, pp. 69-72 §21.

trees should not be cut'.¹

‘Abd Allāh b. ‘Umar رضي الله عنه stated in one narration that when Abū Bakr al-Ṣiddīq رضي الله عنه dispatched the Muslim troops to Syria, he walked with them for two miles and addressed them, saying,

أَوْصِيَكُمْ بِتَقْوَى اللَّهِ، لَا تَعْصُوا وَلَا تَغْلُوا، وَلَا تَحْبِسُوا، وَلَا تُغْرِقُوا نَخْلًا،
وَلَا تُحْرِقُوا زَرْعًا، وَلَا تَحْبِسُوا بَيْمَةً، وَلَا تَقْطَعُوا شَجَرَةً مُثْمِرَةً، وَلَا
تَقْتُلُوا شَيْخًا كَبِيرًا، وَلَا صَبِيًّا صَغِيرًا.

‘I enjoin you to fear God. Do not disobey [the military commander] or show cowardice. Do not drown date-palm trees or set crops on fire. Do not hobble animals and do not cut down fruit-bearing trees. Do not kill an old man or a young child’.²

‘Āṣim b. Kulayb narrated on the authority of his father that one of the *Anṣār* related, ‘We set out on a journey with the Prophet ﷺ. The people were suffering from hunger and were in need, so they forcibly took some goats and slaughtered them. The pots were boiling when the Prophet ﷺ came over with his back resting against a bow, and he started turning our pans upside down with the bow and mixing the meat with the soil. Then he said,

إِنَّ النَّهْبَ لَيْسَتْ بِأَحْلَ مِنَ الْمَيْتَةِ.

“Eating stolen food is not any more lawful than eating carrion!”.³

What a lofty demonstration of conduct and commitment to ethical principles! Whether in the theatre of war, or during a state of extreme hunger in a long, tiresome journey, no military leader, religious authority

¹ Set forth by •Ibn Abī Shayba in *al-Muṣannaf*, 6:483 §33122.

² Set forth by •al-Marwazī in *Musnad Abī Bakr*, pp. 69–72 §21.

³ Set forth by •Abū Dāwūd in *al-Sunan: Kitāb al-jihād* [The Book of Jihad], 3:66 §2705. •al-Bayhaqī in *al-Sunan al-kubrā*, 9:61 §17789.

or spiritual mentor can demonstrate this level of pious, exalted and strong character. It was the influence of the Prophet's training of the Companions that when the pans containing cooked meat were mixed into the dust in front of them, though they were seized with extreme hunger at that time, these embodiments of patience totally submitted themselves to the Prophet ﷺ.

The words spoken by the Prophet ﷺ on that occasion are a valuable gift for humanity. His describing stolen food as viler than the flesh of an un-slaughtered dead animal should give pause to those who feel no compunction in robbing banks and stealing from people to finance their terrorist activities.

4.10 SUMMARY

In the light of the aforementioned explanations, it is evident that even when war is imposed on Islam, and the Muslims are made victims of external aggression, and the Islamic state is compelled to order its armies to fight in defence; children, women and the elderly cannot be killed. Furthermore, damaging crops, destroying buildings, properties and places of worship is also strictly forbidden. How can Islam, which does not allow these practices during jihad, condone and approve the killing of non-combatants who are not directly involved in the aggression and who are going about their daily routine at home, business, travel or at mosques? It is abundantly clear that such activities are in direct contravention of the teachings of the Qur'ān and hadith.